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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,004	08/22/2003	Michael T. Willard	5362-000454	8999

27572 7590 01/09/2006

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EXAMINER

COLETTA, LORI L

ART UNIT PAPER NUMBER

3612

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,004

Applicant(s)

WILLARD, MICHAEL T.

Examiner

Lori L. Coletta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-24 is/are allowed.
- 6) ☒ Claim(s) 25-29, 31-36, 38-43, 45-47 and 49 is/are rejected.
- 7) ☒ Claim(s) 30, 37, 44 and 48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25-29 and 31-35, 38-43 and 45-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Trucco 4,572,570.

Regarding claim 25, Trucco '570 discloses an automotive vehicle comprising a vehicle body having a windshield header (8) and a substantially vertical and rearmost body panel, the body further having a passenger compartment and a storage compartment, the storage compartment being accessible from and being rearward of the passenger compartment; a convertible roof covering the passenger and storage compartments, and extending essentially from the windshield header to the rearmost body panel when in a raised position; and a forward roof bow attached to the roof, the roof bow having an upper surface that remains upwardly facing when in both its raised and retracted positions.

Regarding claim 26, Trucco '570 discloses the vehicle, wherein the storage compartment operably receives the roof when in its retracted position.

Regarding claim 27, Trucco '570 discloses the vehicle, wherein the storage compartment is configured to receive miscellaneous removable objects even when the roof is in its retracted position, and at least a majority of the roof being of a soft-top variety.

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Regarding claim 28, Trucco '570 discloses the vehicle, wherein the storage compartment is accessible from outside and rear of the body when the roof is in its raised and retracted positions.

Regarding claim 29, Trucco '570 discloses the vehicle, wherein the portion of the roof above the roof bow serves to cover at least a cross-car middle portion of all of the stored roof.

Regarding claim 31, Trucco '570 discloses the vehicle, wherein the upper surface of the roof bow is substantially flush with a horizontal plane defined by a beltline of the vehicle body when in its retracted position.

Regarding claim 32, Trucco '570 discloses the vehicle, wherein there are essentially no structural body panels upwardly protruding from a vehicle beltline rearward of a pair of A-pillars when the roof is fully retracted and the side windows are retracted.

Regarding claim 33, Trucco '570 discloses an automotive convertible roof comprising a pliable roof cover (2); a forward most roof bow (6) attached to the cover; at least a second roof bow (6) attached to the cover; and a rigid back window (9); the roof cover, roof bows and back window all being movable between raised and retracted positions; and the second roof bow always moving with and being supported by the back window.

Regarding claim 34, Trucco '570 discloses the roof, wherein the forward most roof bow has a substantially flat section that is upwardly facing when in both its fully raised and fully retracted positions.

Regarding claim 35, Trucco '570 discloses the roof, wherein the back window is fully retracted to a substantially horizontal orientation below the section of the forward most roof bow.

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Regarding claim 38, Trucco '570 discloses an automotive vehicle comprising a vehicle body having a windshield header and a substantially vertical and rearmost body panel, the body further having a passenger compartment and a storage compartment, the storage compartment being accessible from and being rearward of the passenger compartment; a convertible roof covering the passenger and storage compartments, and extending essentially from the windshield header to the rearmost body panel when in a raised position; and a forward most section of the roof being substantially flush with a beltline of the vehicle body when in its retracted position.

Regarding claim 39, Trucco '570 discloses the vehicle, wherein the storage compartment operably receives the roof when in its retracted position.

Regarding claim 40, Trucco '570 discloses the vehicle, wherein the storage compartment is configured to receive miscellaneous removable objects when the roof is in its retracted position, and at least a majority of the roof being a soft-top variety.

Regarding claim 41, Trucco '570 discloses the vehicle, further comprising a forwardmost roof bow having a substantially flat section that is upwardly facing when in both its fully raised and fully retracted positions.

Regarding claim 42, Trucco '570 discloses the vehicle, further comprising a rigid back window fully retracted to a substantially horizontal orientation, the window being coupled to the roof.

Regarding claim 43, Trucco '570 discloses the vehicle, wherein the storage compartment is accessible from outside and rear of the body when the roof is in its raised and retracted position.

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Regarding claim 45, Trucco '570 discloses an automotive vehicle comprising a vehicle body having a windshield header and a substantially vertical and rearmost body panel, the body further having a passenger compartment and a storage compartment, the storage compartment being accessible from and being rearward of the passenger compartment; and a convertible roof covering the passenger and storage compartments, and extending essentially from the windshield header to the rearmost body panel when in a raised position; wherein the storage compartment operably receives the roof when in its retracted position; and wherein the storage compartment is configured to receive miscellaneous removable objects even when the roof is in its retracted position.

Regarding claim 46, Trucco '570 discloses the vehicle, further comprising a forward most roof bow having a substantially flat section that is upwardly facing when in both its fully raised and fully retracted positions.

Regarding claim 47, Trucco '570 discloses the vehicle, further comprising a rigid back window being fully retracted to a substantially horizontal orientation below the section of the forward most roof bow.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 36 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trucco 4,572,570 in view of Pfertner et al. 2002/0024230.

Regarding claim 36, Trucco '570 discloses the roof, but does not show a frame attached to at least an upper periphery of the back window and the second roof bow being secured to the frame.

Pfertner et al. '230 teach a frame (3) attached to at least an upper periphery of the back window (1) and the second roof bow (2) being secured to the frame.

Regarding claim 36, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the vehicle of Trucco '570 with a frame attached to at least an upper periphery of the back window and the second roof bow being secured to the frame, as taught by Pfertner et al. '230, in order to change in a simple manner from a close position into the open position and back.

Regarding claim 49, Trucco '570 discloses the vehicle, further comprising a retractable and rigid back window but does not show a roof bow mounted above the back window when raised, the back window and the roof bow always moving together.

Pfertner et al. '230 teach a roof bow (2) mounted above the back window (1) when raised, the back window and the roof bow always moving together.

Regarding claim 49, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the vehicle of Trucco '570 with a roof bow mounted above the back window when raised, the back window and the roof bow always moving together, as taught by Pfertner et al. '230, in order to change in a simple manner from a close position into the open position and back.

Allowable Subject Matter

5. Claims 1-24 are allowed.
6. Claims 30, 37, 44 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited references show several other convertible tops similar to that of the current invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is 571-272-6658. The examiner can normally be reached on Monday-Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Lori L. Coletta

Lori L. Coletta
Primary Examiner
Art Unit 3612

llc
December 28, 2005